FERC Oversight in Licensing Procedures

1. Certain factors related to cost of power FERC evaluates in determining whether to grant a license include:
    a. Construction and operational plans.
    b. Whether the project can be operated efficiently.
    c. The local need for power.
    d. The projected cost of power.
    e. Comparison of the lowest cost, reasonable alternative source of power.

FERC will not grant a license if not in the public interest based upon economic and other factors.

2. License conditions FERC imposes will impact the cost of power:
    a. FERC will impose license conditions (e.g., environmental conditions).
    b. License conditions usually increase the cost of power.
    c. License conditions are mandatory.
    d. FERC will enforce license conditions.
    e. RCA economic regulation would not eliminate license conditions, regardless of impact on power rates.

3. Post licensing activities.
    a. FERC will review and enforce compliance with license conditions, including dam safety.
    b. FERC reviews and approves license amendments, e.g. to improve efficiency of project.
    c. FERC oversight might impact efficiency and costs, but is not focused upon economic regulation.

RCA Oversight

1. RCA approves power sales agreements.
    a. Decision based on economic and cost of power factors similar to those FERC uses in licensing.
    b. After a power sales agreement is approved
        i. RCA may not invalidate power sales under an approved contract, and
        ii. RCA does not economically regulate operations under the contract, but may order renegotiation or dispute resolution.

2. RCA Statutory Regulation.
    a. Non-economic regulation includes potential investigation of services and facilities of public utility that are unreasonable, unsafe, inadequate, insufficient, or unreasonably discriminatory.
    b. Economic regulation includes:
        i. Approval of rates if "just and reasonable," and "non-discriminatory."
        ii. Potential investigation of utility management for inefficient or unreasonable practices.

Impact of Imposing Rate Regulation on Ability to Obtain Financing.

1. Financing a project at reasonable, economic rates requires minimizing risk of non-payment of the debt.

2. If "rate regulation" is imposed to eliminate the obligation of ratepayers to pay certain expenses (e.g., for cost overruns), another person or entity must pay.
    a. Placing payment risk on lenders or bond holders will likely either (i) preclude financing, or (ii) increase the cost of financing (increased costs which would pass through to ratepayers).
    b. Placing payment risk on utilities would generally redirect the obligation to the same persons - - from ratepayers to members for cooperatives, and from ratepayers to tax-payers for municipal utilities.
    c. Future legislatures could choose to appropriate more funds to the project to cover cost overruns, and protect ratepayers.

3. RCA statutes protect lenders and bond holders of municipal and cooperative utilities, assuring that rates RCA approves will cover debt payments.